

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

HAROLD CORREOS, et al.,

2:12-CV-556 JCM (RJJ)

Plaintiffs,

v.

NATIONAL DEFAULT SERVICING
CORPORATION, et al.,

Defendants.

ORDER

Presently before the court is plaintiffs Harold and Rosemarie Correos' motion to extend time for service pursuant to Federal Rule of Civil Procedure 4(m). (Doc. #11).

On June 6, 2012, the clerk of the court issued a notice of intent to dismiss pursuant to Federal Rule of Civil Procedure 4(m) if plaintiffs did not file proof of service on or before July 6, 2012. (Doc. #8). Plaintiffs now move for a 45-day extension of time for serving the defendants. (Doc. #11).

Plaintiffs assert that good cause exists to extend time because their former attorney was negligent and ineffective in failing to serve defendants. Plaintiffs also argue that defendants will not be prejudiced by an extension of time because no discovery has taken place. Finally, plaintiffs state that defendants had actual notice of this case, as demonstrated by their removal of the case from state court to federal court. (Doc. #11).

Pursuant to Federal Rule of Civil Procedure 4, "if the plaintiff shows good cause for the

1 failure [to serve defendant], the court must extend the time for service for an appropriate period.”
2 *See also In re Sheehan*, 253 F.3d 507, 512 (9th Cir. 2001) (stating “First, upon a showing of good
3 cause for the defective service, the court must extend the time period. Second, if there is no good
4 cause, the court has the discretion to dismiss without prejudice or to extend the time period”). To
5 establish good cause, a plaintiff may be required to show: (1) the party to be served personally
6 received actual notice of the lawsuit; (2) the defendant would suffer no prejudice; and (3) plaintiff
7 would be severely prejudiced if his complaint were dismissed. *Boudette v. Barnette*, 923 F.2d 754,
8 756 (9th Cir. 1991).

9 Good cause appearing,

10 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiffs Harold and
11 Rosemarie Correos’ motion to extend time for service pursuant to Federal Rule of Civil Procedure
12 4(m) (doc. #11) be, and the same hereby is, GRANTED. Plaintiffs have 45 days from the entry of
13 this order to effect service and file proof of that with the court.

14 DATED June 28, 2012.

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UNITED STATES DISTRICT JUDGE
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